

IN RE: PETITION FOR ZONING VARIANCE  
5/8 Baltimore National Pike  
235' W of the c/l of Newwood Road  
1st Election District  
1st Councilmanic District  
Vernon E. Marshall, Sr., et ux  
Petitioners

REPORT THE  
DEPUTY ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 89-183-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request variances to permit a front yard setback of 20 feet in lieu of the required 25 feet, a side yard setback of 22.9 feet in lieu of the required 30 feet, a front and rear yard distance between buildings of 45 feet in lieu of the required 55 feet, and a rear yard setback of 25 feet, more or less, in lieu of the required 40 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Gordon E. Couperthwaite, Esquire, appeared and testified. Also appearing on behalf of the Petition was Richard L. Smith, a Land Planner and Engineer with Kidd Consultants, Inc. There were no Protestants.

At the onset of the hearing, Petitioners modified their Petition to request a rear yard setback of 25 feet in lieu of the required 30 feet.

Testimony indicated that the subject property, located on Baltimore National Pike, consists of 2.6 acres and is zoned B.R. The property is improved with two one-story buildings, one from which an existing Pizza Hut restaurant is operated, and the other, a warehouse/office building. Testimony indicated that Petitioners propose subdividing the property to permit separate ownership of the two buildings, which have existed on the site for greater than 15 years. However, in order to subdivide the property, the requested variances are needed. Testimony indicated that the

**PETITION FOR ZONING VARIANCE**  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-183-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 238.1 (front yard) of the BCR to allow a front yard setback of 20 feet in lieu of the required 25 feet (a variance of 5'). Section 238.2 (side yard) of the BCR to allow a side yard of 22.9 feet in lieu of the required 30 feet (a variance of 7.1 feet). Section 238.1 (front yard) and 238.2 (rear yard) to allow a total distance between two (2) buildings to be 45 feet in lieu of the required 55 feet (a variance of 10 feet). Section 238.4 (rear yard) of the BCR to allow a rear yard of 25 feet in lieu of the required 40 feet (a variance of 15 feet). The buildings on the site are existing, fully occupied, and cannot be removed. The site is now under one ownership and we would like to sub-divide and sell off the two lots as indicated on the enclosed plat which would require these variances to the existing zoning ordinances.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Vernon E. Marshall, Sr.  
(Type or Print Name)  
Signature: *Vernon E. Marshall, Sr.*  
Address: 2328 S.W. ANGLIMORE DRIVE, (442) 247-3721  
City and State: FARMERS CITY, MO. 64440  
Signature: *Mary M. Marshall*  
Address: 10325 TWINEDOW PL., COLUMBIA, MD 21044  
City and State: Columbia, Maryland 21044  
Attorney for Petitioner: Gordon E. Couperthwaite  
(Type or Print Name)  
Signature: *Gordon E. Couperthwaite*  
Address: 10325 Twinedow Place  
City and State: Columbia, Maryland 21044  
Attorney's Telephone No.: (301) 730-6950  
Address: 10325 Twinedow Pl., Columbia, MD 21044  
Phone No. (301) 730-6950

ORDERED BY THE ZONING COMMISSIONER OF BALTIMORE COUNTY, this 14th day of November, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 100 of the County Office Building in Towson, Baltimore County, on the 17th day of December, 1989, at 2:30 o'clock P.M.

*J. Robert Haines*  
Zoning Commissioner of Baltimore County

variances are minor in nature and will result in no practical difficulty or detriment to the health, safety or general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of November, 1988 that the Petition for Zoning Variance to permit a front yard setback of 20 feet in lieu of the required 25 feet, a side yard setback of 22.9 feet in lieu of the required 30 feet, a front and rear yard distance between buildings of 45 feet in

**HIDDE CONSULTANTS, INC.**  
Subsidiary of K&H, Inc.

**ZONING DESCRIPTION OF VERNON E. MARSHALL PROPERTY**  
1ST ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND

This description is for yard variances in a "BR" zone.

BEGINNING FOR THE SAME at a point on the south right of way line of Baltimore National Pike (U.S. Route 40) 150.00 feet wide, said point of beginning being approximately 235 feet west of the intersection of said south side of Baltimore National Pike and the extended centerline of Newwood Road, 70.00 feet wide thence leaving said right of way line of Baltimore National Pike and running the following eight courses: (1) South 19 degrees 51 minutes 30 seconds West 359.51 feet, (2) North 67 degrees 08 minutes 30 seconds West 297.83 feet, (3) North 18 degrees 16 minutes 10 seconds East 378.80 feet, to intersect said south right of way line thence, (4) by a curve to the left 199.31 feet of arc, said curve having a radius of 7,714.44 feet (5) South 19 degrees 51 minutes 30 seconds West 198.59 feet, (6) South 63 degrees 42 minutes 23 seconds East 80.51 feet, (7) North 19 degrees 51 minutes 30 seconds East 199.46 feet, to intersect said south right of way line, thence (8) by a curve to the left 30.15 feet of arc, said curve having a radius of 7,714.44 feet to the point of beginning.

CONTAINING APPROXIMATELY 2 ACRES.

AP/pek KCF Job Order No. 01-88046 June 14, 1988  
Work Order No. 48693C

lieu of the required 55 feet, and a rear yard setback of 25 feet, more or less, in lieu of the required 30 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, from and after the date of this Order.

ANN:hjs

*H. NASTASOWICZ*  
ANN M. NASTASOWICZ  
Deputy Zoning Commissioner  
For Baltimore County

**CERTIFICATE OF POSTING** 89-183-A  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 1st Date of Posting: October 26, 1988

Posted for: Variance to Marshall, Sr. et ux

Location: 5/8 Baltimore National Pike, 235' W of c/l of Newwood Road

Location of Sign: South side of Baltimore National Pike approx. 335' West of Twinedow Road

Remarks: *S. J. Couperthwaite*

Posted by: *S. J. Couperthwaite* Date of return: October 28, 1988

Number of Signs: 1

**NOTICE OF HEARING**

The Zoning Commission of Baltimore County, Maryland, will hold a public hearing on the Petition for Zoning Variance of Vernon E. Marshall, Sr. et ux, for a Variance from Section 238.1 (front yard) of the BCR to allow a front yard setback of 20 feet in lieu of the required 25 feet (a variance of 5'). Section 238.2 (side yard) of the BCR to allow a side yard of 22.9 feet in lieu of the required 30 feet (a variance of 7.1 feet). Section 238.1 (front yard) and 238.2 (rear yard) to allow a total distance between two (2) buildings to be 45 feet in lieu of the required 55 feet (a variance of 10 feet). Section 238.4 (rear yard) of the BCR to allow a rear yard of 25 feet in lieu of the required 40 feet (a variance of 15 feet). The buildings on the site are existing, fully occupied, and cannot be removed. The site is now under one ownership and we would like to sub-divide and sell off the two lots as indicated on the enclosed plat which would require these variances to the existing zoning ordinances.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a newspaper of general circulation published in Towson, Baltimore County, Md., appearing on Oct. 27, 1988.

THE JEFFERSONIAN,  
S. Zake Orlan  
Publisher

PO 05238  
req 1120379  
case 89-183-A  
price \$ 74.97 J+C

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
444-2323 887-3353

J. Robert Haines  
Zoning Commissioner

November 30, 1988

Gordon E. Couperthwaite, Esquire  
10325 Twinedow Place  
Columbia, Maryland 21044

RE: PETITION FOR ZONING VARIANCE  
5/8 Baltimore National Pike, 235' W of the c/l of Newwood Road  
1st Election District - 1st Councilmanic District  
Vernon E. Marshall, Sr., et ux - Petitioners  
Case No. 89-183-A

Dear Mr. Couperthwaite:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Mr. Charlotte Radcliffe at 494-3391.

Very truly yours,  
*H. NASTASOWICZ*  
ANN M. NASTASOWICZ  
Deputy Zoning Commissioner  
for Baltimore County

cc: Mr. & Mrs. Vernon E. Marshall, Sr.  
2328 S.W. Anglimore Drive  
Farmers City, Florida 34999

People's Counsel

File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
444-2323

J. Robert Haines  
Zoning Commissioner

Date: 11-2-88

Gordon E. Couperthwaite, Esq.  
10325 Twinedow Place  
Columbia, Maryland 21044

Re: Petition for Zoning Variance  
Case No. 89-183-A  
5/8 Baltimore National Pike, 235' W of c/l of Newwood Road  
1st Election District - 1st Councilmanic District  
Petitioner(s): Vernon E. Marshall, Sr. et ux  
HEARING SCHEDULED: THURSDAY, NOVEMBER 17, 1988 at 2:30 a.m.

Dear Mr. Couperthwaite:

Please be advised that \$9.97 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL BE VOID.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 100, 10000 York Road, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 11/2/88 ACCOUNT: 89-183-A

RECEIVED: *Vernon E. Marshall, Sr.*  
By: *Robert Haines* 11/7/88 hearing

8 B C N\*\*\*\*\* 89-183-A

VALIDATION OR SIGNATURE OF CARRIER

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

October 7, 1988

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

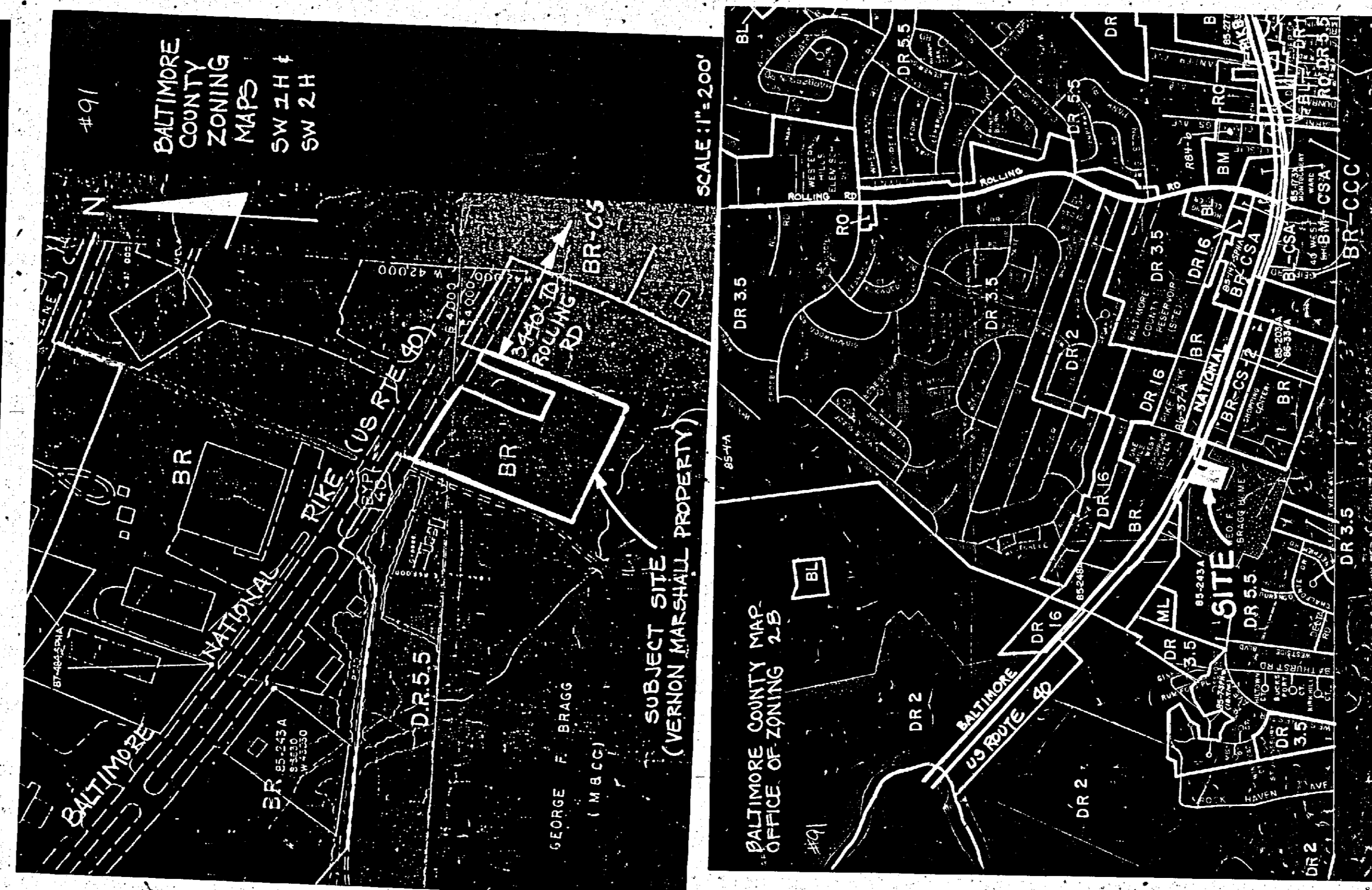
Petition for Zoning Variance  
CASE 89-183-A  
31 Baltimore National Pike, 235' W. of N. Wood Road  
1st Election District - 1st Council District  
Petitioner(s) Vernon E. Marshall, Sr., et ux  
MARSHALL SCHOLARSHIP THURSDAY, NOVEMBER 17, 1988 at 9:30 a.m.

Variance to allow a front yard setback of 20' instead of the required 25' to allow a side yard of 25' instead of the required 30' to allow a total distance between two (2) buildings to be 60' instead of the required 55', and to allow a rear yard of 25' instead of the required 40'.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County  
111 W. Chesapeake Ave., et ux  
Gordon E. Couperthwaite, Esq.  
File

IF PHASE II OF THE SUBMITTAL PLAN IS IN EFFECT IN BALTIMORE COUNTY AT 9:00 A.M. ON THE DATE OF THE ABOVE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, OCTOBER 27, 1988. PLEASE TELEPHONE COUNTY CLERK AT 494-3333 TO CONFIRM DATE.



89-183-A  
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this  
14th day of September, 1988.

J. Robert Haines  
Zoning Commissioner

Petitioner: Vernon E. Marshall, Sr., et ux  
Attorney: Gordon E. Couperthwaite

Received by: J. Robert Haines  
Chairman, Zoning Plans  
Advisory Committee

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building, Suite 406  
Towson, Maryland 21204  
494-3334

October 11, 1988

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, MD 21204

RECEIVED ZONING OFFICE  
DATE: 10/14/88

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 65, 67, 66, 67, 69, 90, 91 & 92.

Very truly yours,  
Michael S. Flanigan  
Traffic Engineer Associate II

MSF:lab

Baltimore County  
Fire Department  
Towson, Maryland 21204-2506  
494-4500

Paul H. Reinke  
Chief

September 12, 1988

J. Robert Haines, Zoning Commissioner  
Office of Planning & Zoning  
Baltimore County Office Building  
Towson, Maryland 21204

Re: Property Owner: Vernon E. Marshall, Sr., et ux  
Location: SS Balto. Nat'l. Pike, 235' W. of Centerline of  
Item No. 91  
Zoning Agenda: Meeting of 9/13/88

Dennis P. Bauman  
Chief, Fire Prevention

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle load and condition shown at: \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

REVIEWED: [Signature] APPROVED: [Signature]  
Fire Prevention Bureau  
Special Inspection Division

1/51

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE  
November 2, 1988

COUNTY OFFICE BUILDING  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

Gordon E. Couperthwaite, Esquire  
10325 Winewood Place  
Columbia, Maryland 21044

RE: Item No. 91 - Case No. 89-183-A  
Petitioner: Vernon E. Marshall, Sr., et ux  
Petition for Zoning Variance

Dear Mr. Couperthwaite:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,  
James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:dt

1908-1988  
Maryland Department of Transportation  
State Highway Administration

Richard H. Trainor  
Secretary  
Neil Kassoff  
Administrator

October 14, 1988

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204  
At: James Dyer

RE: Baltimore County  
Vernon E. Marshall, Sr.  
Property #8 Baltimore  
National Pike  
MD 40W  
235' west of the  
centerline of  
Winewood Road  
Item #91  
Zoning Meeting 9/13/88

Dear Mr. Haines:

After reviewing the submittal of the Vernon E. Marshall property for variances of front and side yard setbacks, we find the plan generally acceptable.

If you have any questions, contact Larry Brocato of this office (333-1350).

Very truly yours,  
[Signature]  
Chester J. Mills, Jr.  
Chief Bureau of Engineering  
Access Permit

LB/es  
cc: Kidd Consultants  
J. Ogle

My telephone number is (301) 333-1350.  
Teleprinter for Inspected Hearing or Speech  
383-7555 Baltimore Metro - 585-0410 D.C. Metro - 1-800-432-7082 Statewide Toll Free  
707 North Capitol St. Baltimore, Maryland 21201-0717

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

J. Robert Haines  
TO: Zoning Commissioner  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Zoning Petition No. 89-183-A

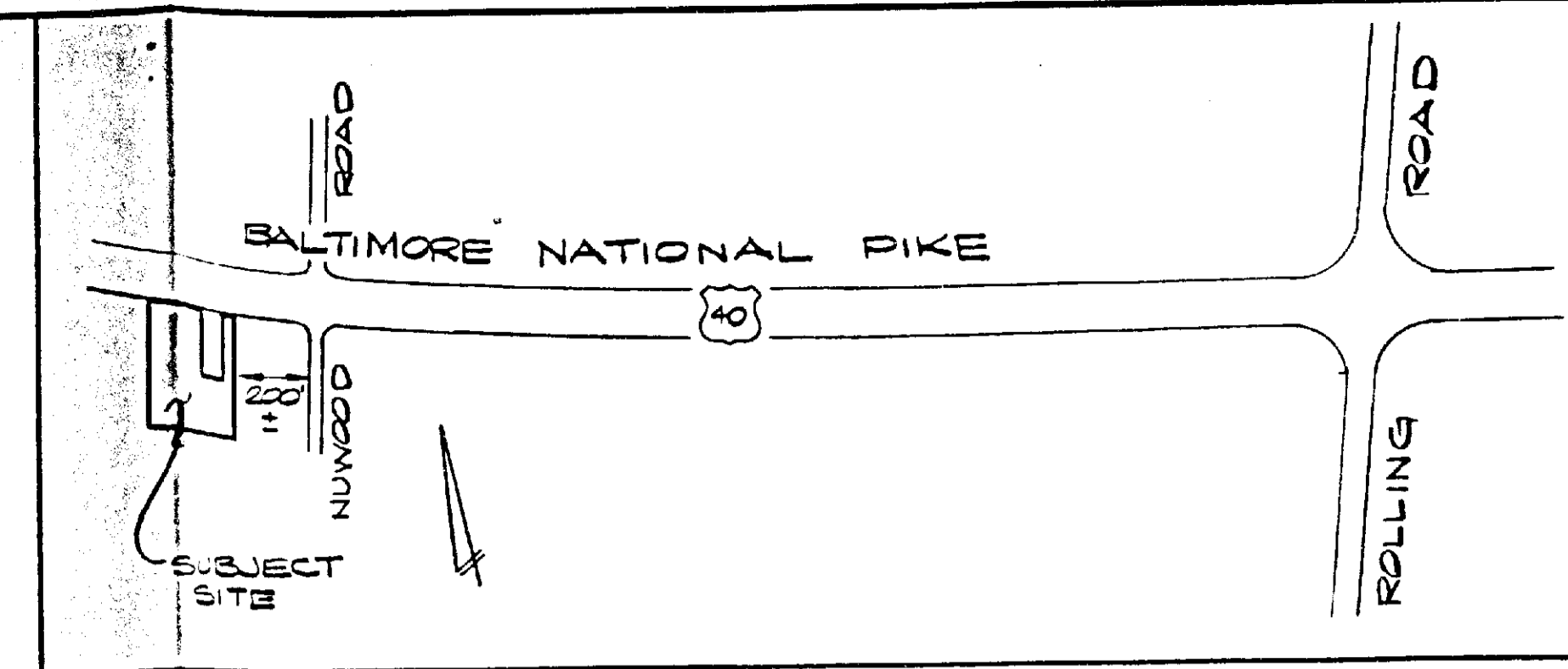
Date: November 15, 1988

The applicant is requesting variances in order to subdivide an existing developed parcel to three separate parcels. Staff recommends approval of the applicant's request subject to the following:

- a landscape plan should be reviewed and approved by the County Landscape Planner. The main area of concern is the upgrading of the streetscape along U.S. Route 40.

YK/sf

RECEIVED ZONING OFFICE  
DATE: 11/17/88



LOCATION MAP  
1" = 500'

REVISED PLAN

## GENERAL NOTES

1. GROSS AREA OF SITE = 2.16 AC ± (94,004 SF)  
NET AREA OF SITE = 2.0 AC ± (87,120 SF)
2. EXISTING ZONING - BR WITH YARD VARIANCE
3. EXISTING USE(S) - RESTAURANT, OFFICES, RETAIL  
SALES, & WAREHOUSE
4. OFF-STREET PARKING DATA :
  - A. RESTAURANT AREA = 3112 SF, REQUIRING 62.4 SP (2%/1000 \$)
  - B. RETAIL AREA = 684 SF, REQUIRING 3.4 SP (6%/1000 \$)
  - C. OFFICE AREA = 3000 SF, REQUIRING 1.5 SP (3%/1000 \$)
  - D. WAREHOUSE AREA = 17,033 SF w/ 1 EMPLOYEE  
REQUIRING 1 SP (1/EMPLOYEE)
  - E. TOTAL SPACES REQUIRED = 76.8 = 77 SPACES
  - F. TOTAL SPACES PROVIDED = 85 SPACES
5. SITE IS LOCATED IN THE MILLER'S RUN DRAINAGE  
AREA
6. PUBLIC UTILITIES EXIST ON-SITE

### VARIANCES REQUESTED

1. PETITIONER IS REQUESTING A VARIANCE TO SECTION 238.1 (FRONT YARD) OF THE BCZR TO ALLOW A FRONT YARD SETBACK OF 20' INSTEAD OF THE REQUIRED 25' (A VARIANCE OF 5').
2. PETITIONER IS REQUESTING A VARIANCE TO SECTION 238.2 (SIDE YARD) OF THE BCZR TO ALLOW A SIDE YARD OF 22.0' INSTEAD OF THE REQUIRED 30' (A VARIANCE OF 7.1').
3. PETITIONER IS REQUESTING A VARIANCE TO SECTION 238.1 (FRONT YARD) AND 238.2 (REAR YARD) TO ALLOW A TOTAL DISTANCE BETWEEN TWO (2) BUILDINGS TO BE 45' ± INSTEAD OF THE REQUIRED 55' (A VARIANCE OF 10').
4. PETITIONER IS REQUESTING A VARIANCE TO SECTION 238.2 (REAR YARD) OF THE BCZR TO ALLOW A REAR YARD OF 25' ± INSTEAD OF THE REQUIRED 30' (A VARIANCE OF 5').

BACK  
2. STEAD  
PETITIONER  
EXHIBIT 1  
OF 16

**KIDDE CONSULTANTS, INC.**

ENGINEERS • PLANNERS • SURVEYORS

1020 CROMWELL BRIDGE ROAD, BALTIMORE, MARYLAND 21204, 301-321-5500

ELECTION DISTRICT NO 1  
COUNCILMANIC DISTRICT NO 1  
BALTIMORE COUNTY, MARYLAND

PLAT TO ACCOMPANY PETITION FOR  
YARD VARIANCES  
VERNON E. MARSHALL PROPERTY  
BALTIMORE NATIONAL PIKE WEST OF NUWCOOD ROAD

SHEET 1 OF 1	DATE JUNE 1988 SCALE 1" = 30'	JOB NUMBER 01-33046
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